

**BEST AVAILABLE COPY****Remark**

Applicant respectfully requests reconsideration of this application as amended.

Claims 9, 10, 12, 25, 29 and 43 have been amended. Claim 6 has been previously cancelled. Therefore, claims 1-5 and 7-49 are present for examination.

**35 U.S.C. §112 Rejection**

The Examiner has rejected claims 9-25 and 43-49 under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The points objected to have been corrected in the amendments above.

**35 U.S.C. §101 Rejection**

The Examiner has rejected claim 29 under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. The Examiner writes that "the claim appears to be directed to an arrangement of software." The rejection is not understood and there is no factual or legal basis provided for this rejection. The claim is directed to an apparatus that includes a receiver, a set of transforms, a comparator, a transform generator, and a transform engine. Applicant respectfully request that if the Office persists in this rejection then a factual and legal basis for the rejection be provided.

**35 U.S.C. §103 Rejections***Manning in view of Morgenstern*

The Examiner has rejected claims 1-3, 7-13, 15-20 and 22-23 under 35 U.S.C. §103 (a) as being unpatentable over ("Manning"), in view Morgenstern, U.S. Patent No.

5,970,490. ("Morgenstern"). Manning is directed to and Morgenstern are both directed to indexing systems for queries in a relational database. The invention of Claim 1 is directed, at least in part, to formatting data from the format of the software component from which it was received into a storage format that is compatible with the receiving system. This is done without using the software component.

As has been previously explained, Manning does not show formatting data before it is stored. Instead, in Manning some of the metadata is copied into tables. The Examiner's response to this fact of the reference is that "it would have been obvious." The Examiner's argument now asserted through 109 pages of written Office actions is to take words in Manning out of context and fill in with "it would have been obvious."

In the last response, Applicant submitted that "the Examiner sets forth an interpretation of Manning as showing a persistence package, persistent data, and a storage format. This interpretation does not come from the reference. However, for purposes of expediting prosecution, Applicant will discuss the reference as if the claims applied to Manning." It is now clear that the Office has no interest in expediting prosecution. The current Office action presents rejections under 101 and 112 that should have been presented in the first action and it reiterates old rejections, as if they are new without responding to Applicant's previous arguments. In an effort to avoid appeal and in the hope that the Examiner will carefully consider this response, Applicants present herewith an element by element analysis of Manning.

Applicant begins herein with the Examiner's section 11.1, from 11.1.1. to 11.1.11.

Claim 1 of the present application begins with receiving a persistence package from one of a plurality of different software components, the software components having persistent data in different formats. First, the Examiner has ignored the words

"persistence" and "persistent" which have no parallel in Manning. Second, the Examiner has inferred the software components.

Most importantly, the Examiner asserts that ""it would have been obvious that persistent data from vector graphics is in a different format than e-commerce transactions." Applicant shall assume that the Examiner means to take Official Notice that data from vector graphics is in a different format than data from e-commerce transactions. Be that as it may, in Manning all the data is in XML + DTD format. There is nothing in the reference to suggest that there are different software components with different data formats.

Moving on to "establishing, based on the extracted metadata, a transform for a storage format for the persistent data," the Examiner leaves out the word "transform" and points to paragraphs 28 and 41. These paragraphs refer only to creating tables. The tables contain information taken from the XML data. The tables allow for querying and do not appear to have anything to do with persistence or different software applications, nor with transforms. The tables would appear to be additional metadata (para. 28, lines 3-4). At this point, Applicant is uncertain what "transform." and "storage format" are being read on. "Based on the extracted metadata" seems to have been ignored.

Claim 1 next recites, "applying the transform to the persistent data to format the persistent data." Manning does no such thing. The data is untouched, it is complemented by the element directory table and the navigation table, there is no transform to apply and no formatting.

Claim 1 further defines this formatting to be "from the format of the software component into a storage format." As mentioned previously, the Manning data comes in as XML and stays as XML with a little more metadata.

The Examiner has responded that "it would have been obvious that a transform is applied" Applicant believes that the Examiner means to assert that it is inherent in Manning that when a value is stored in an element table, a transform is applied to the value to determine where in the table to store that value. Of course, there is no suggestion in Manning that a transform be used. It would appear that the tables are added to the XML and that the database uses the XML tables.

As to the storing element of Claim 1, the Examiner would appear to be asserting that it is inherent in Manning that the tables are stored, that the storing is done in a storage device and that this is done during runtime. There are limitations regarding persistence, software components, and the storage device that all interrelate and that are being ignored.

For further support regarding the transforms, the Examiner has turned to Morgenstern at Col. 6, line 1, through Col. 8, line 53. Applicant is unable to find a transform for a storage format for persistent data in this section of Morgenstern. Applicant is further unable to find, and the Examiner is unable to point out, any suggestion that transformation generator 42 establishes a transform based on metadata or operates without using the software components from which a data package is received. On the contrary, it would appear that the source is tightly connected with the transform generator and transformer engine 66.

Accordingly, the elements of Claim 1 are not met by the cited combination. Claims 29 and 36 were rejected on similar grounds. These claims contain even more limitations that are neither taught nor suggested by the combination.

**35 U.S.C. §102 Rejection*****Manning***

The Examiner has rejected claims 43-44 and 47-49 under 35 U.S.C. §102(e) as being anticipated by Manning, U.S. Patent Publication No. 2002/0103829, ("Manning"). Claim 43, the only independent claim of the group is similar to Claim 1 except that it does not contain the explicit recitation of a transform. Claim 43 is believed to be allowable on all of the grounds mentioned above with respect to Claim 1 and Manning.

**35 U.S.C. §103 Rejections*****Manning, Morgenstern and XML, Delta XML, Deutsch, Kanne, Schoning, Ives, Nestorov, Mani***

The Examiner has rejected the remaining claims under 35 U.S.C. §103 (a) as being unpatentable over various combinations of ("Manning"), and ("Morgenstern"), in view of one or more of XML ("Extensible Markup Language (XML) 1.0"), DeltaXML ("DeltaXML"), Deutsch, ("Deutsch, Alin; Fernandez, Mary; Suciu, Dan; ("Storing Semistructured Data with STORED", 1999, Proceedings of the 1999 ACM SIGMOD international conference on management of data"), Kanne, ("Kanne, Carl-Christian, Moerkotte, Guido; "Efficient storage of XML data", 1999, Technical Report 8/99, University of Mannheim), Schoning, ("Schoning, Harald"; Tamino-a DBMS Designed for XML", 2001 Proceedings 17<sup>th</sup> International Conference on Data Engineering, 2-6 April 2001), Ives ("Ives, Zachary, G.; Florescu, Daniela; Friedman, Marc; Levy, Alon; Weld, Daniel S.; "An Adaptive Query Execution System for Data Integration", 1999, SIGMOD 1999"), Nestorov, (Nestorov, Svetlozar; Abiteboul, Serge; Motwani, Rajeev; "Extracting Schema from Semistructured Data", 1998 Proceedings of the 1998 ACM

SIGMOD international conference on Management of data"), Mani, U.S. Patent No.

6,654,734 ("Mani").

In the interests of economy, Applicant will not analyze all of these materials in depth and present a separate defense of each of the remaining claims. It is sufficient to state that these references are not cited for the features that are absent from Manning and Morgenstern as mentioned above.

Assuming that all of these references are necessary for the rejections and that all of the references teach what the Examiner suggests that they do, it should also be noted that if Applicant has been able to create a seamless integrated combination of features from so many disparate references, that that, in and of itself, is inventive. Clearly such a combination has not been contemplated by a very wide range of workers in the field.

### Conclusion

Applicant respectfully submits that the rejections have been overcome by the amendment and remark, and that the claims as amended are now in condition for allowance. Accordingly, Applicant respectfully requests the rejections be withdrawn and the claims as amended be allowed.

**Invitation for a Telephone Interview**

The Examiner is requested to call the undersigned at (303) 740-1980 if there remains any issue with allowance of the case.

**Request for an Extension of Time**

Applicant respectfully petitions for an extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary. Please charge our Deposit Account No. 02-2666 to cover the necessary fee under 37 C.F.R. § 1.17(a) for such an extension.

Charge our Deposit Account.

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,  
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Date: July 11, 2006

  
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